

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

SARASOTA WINE MARKET, LLC,	)	
d/b/a MAGNUM WINE AND	)	
TASTING, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 4:17-cv-2792 HEA
	)	
MICHAEL L. PARSON, et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS' RESPONSE TO PLAINTIFFS'  
NOTICE OF NEW PERTINENT AUTHORITY**

Defendants state that the new, pertinent authority is a case out of the Eastern District of Michigan, a district court in the Sixth Circuit. *Lebamoff Enterprises v. Snyder*, Case No. 17-10191 (E.D. Mich. 9/28/18). [Doc. #42-1] Similar to *Byrd v. Tennessee Wine & Spirits Assoc.*, 883 F.3d 608 (6<sup>th</sup> Cir. 2018), the Court found Michigan's shipping laws were unconstitutional because they forbid out-of-state retailers from shipping wine to Michigan consumers. *Lebamoff*, slip op. \*19. [Doc. #42-1, p. 19]

Both of these cases were decided in the Sixth Circuit. The current case is pending in the Eighth Circuit where it has been determined that the residency requirements are constitutional and were authorized by the Twenty-First Amendment. *Southern Wine and Spirits of Am., Inc. v. Div. of Alc. &*

*Tobacco Control*, 731 F.3d 799, 809-12 (8<sup>th</sup> Cir. 2013). This court is obliged to follow the holdings of the Eighth Circuit.

Respectfully submitted,

**JOSHUA D. HAWLEY**  
Attorney General

/s/ Katherine S. Walsh  
Katherine S. Walsh, MO37255  
Assistant Attorney General  
P.O. Box 861  
St. Louis, MO 63188  
Tel: (314) 340-7861  
Fax: (314) 340-7029  
[katherine.walsh@ago.mo.gov](mailto:katherine.walsh@ago.mo.gov)

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 4<sup>th</sup> day of October, 2018, a copy of the foregoing was filed via the Court's electronic filing system and was served by operation of the CM-ECF system on all counsel of record.

/s/ Katherine S. Walsh